IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

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W.P.Nos.7005 and 7009 of 2002

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WRIT PETITION NO : 7005 of 2002

Between:

P.Malleswara Rao s/o.late Suryanarayana,

Aged about 26 years, Transport Business, r/o.Jonnalapadu village,

Sanipadu Post, Garamanadalam, Srikakulam Dist.

..... PETITIONER

AND

1. The State Transport Appellate Tribunal, A.P., rep. By its

Presiding Officer, Housing Board Buildings, near Exhibition Grouds,

Hyderabad.

2. The Regional Transport Authority, Srikakulam District, by its

Secretary, Srikakulam.

3. The Regional Manager, A.P.S.R.T.C., Srikakulam, Srikakulam Dist.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ, order or direction, one in the nature of Writ of Certiorari calling for the entire records from the file of the 1st respondent in A.P.177/2000 and quash its order dated 12.11.2001 confirming the order of the 2nd respondent dt.3.7.2000 in item No.16 in Rc.No.2293/A1/2000 rejecting the application of the petitioner for the grant of a pucca stage carriage permit to the petitioner on the route Kasibugga to Yerramukkam with a direction to the 2nd respondent to issue a stage carriage permit to the petitioner on the above route.

Counsel for the Petitioner: MR.T.VENKATA RAMANA

Counsel for the Respondent Nos.1 and 2: GP FOR ROADS & BUILDINGS

Counsel for the Respondent No.3 : Mr.K.Srinivasa Rao, S.C. for A.P.S.R.T.C.

WRIT PETITION NO : 7009 of 2002

Between:

P.Vijaya Bhaskara Rao s/o.late Suryanarayana,

Transport Business, Jonnalapadu village,

Sanipadu Post, Gara Mandalam, Srikakulam Dist.

..... PETITIONER

AND

1. The State Transport Appellate Tribunal, A.P., rep. By its

Presiding Officer, Housing Board Buildings, near Exhibition Grouds,

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.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction, one in the nature of Writ of Certiorari calling for the entire records from the file of the 1st respondent in A.P.No.176/2000 and quash its order dt.12.11.2001 confirming the order of the 2nd respondent dt.3.7.2000 in item No.16 in Rc.No.2293/A1/2000 rejecting the application of the petitioner for the grant of a pucca stage carriage permit to the petitioner on the route Kasibugga to

Yerramukkam with a direction to the 2nd respondent to issue a stage carriage permit to the petitioner on the above route.

Counsel for the Petitioner: MR.T.VENKATA RAMANA

Counsel for the Respondent Nos.1 and 2: GP FOR ROADS & BUILDINGS

Counsel for the Respondent No.3. Mr.K.Srinivasa Rao, S.C.for A.P.S.R.T.C.

The Court made the following:

COMMON ORDER:

Both petitioners herein filed applications for grant of pucca stage carriage permits on muffasil service route Kasibugga to Yerramukkam via Neelavathi gate, Neelavathi, Rangoyi, Suvaranapuram, Pallibadapalli, Badapalli, Garguwada, Ratti and Nalluru before the Regional Transport Authority, Srikakulam, the 2nd respondent herein. While considering the applications of both the petitioners for the grant of stage carriage permits on the said route the 2nd respondent resolved to reject the same on the ground that the said route is not formulated for plying the stage carriages by the Government as contemplated under Section 68(3)(ca) of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act') and, therefore, the petitioners are not entitled to ply stage carriages on the said new route. It is further stated that though the overlapping is less than 8 K.Ms., as per the exemption granted by the Government in the

notifying routes and the overlapping is only 7.3 K.Ms., the petitioners are not entitled to new permits on the ground that the route is not formulated by the Government. Aggrieved by the said proceedings dated 3.7.2000 of the Regional Transport Authority, Srikakulam, both the petitioners herein filed appeals in A.P.Nos.176 of 2000 and 177 of 2000 before the State Transport Appellate Tribunal, Hyderabad, and the same were dismissed by order dated 12.11.2001 stating that the route is not formulated by the Government and since the route is not formulated the question of granting permits to the petitioners does not arise.

A perusal of the proceedings of the Deputy Transport Commissioner, Srikakulam in Rc.No.11740/A1/2001 dated 29.12.2001 goes to show that the A.P.S.R.T.C has plied its vehicle bearing No.AEZ 2931 on the muffasil route Palasa to Yerramukkam on the strength of temporary permit from 17.8.1989 to 16.12.1989.

It is therefore contended by the learned counsel appearing for the petitioner that it is incorrect to state that the route is not formulated in view of the fact that the Corporation has previously plied its vehicle on the said route by taking temporary permit. It is further stated that Palasa and Kasibugga is one and the same, namely, Palasa – Kasibugga Municipality and, therefore, it is an existing route and the Corporation has plied its vehicle previously from Palasa (Kasibugga) to Yerramukkam. A perusal of Section 68(3)(ca) of the Act goes to show that it is for the Government to formulate routes for plying stage carriages. Prima facie, I am of opinion that unless the road or route is formulated by the Government, it is not open either for the Corporation or private operators to ply their vehicles. In the instant case, it is muffasil route and previously the Corporation plied its vehicle on temporary permit from Palasa to Yerramukkam.

The learned counsel for the petitioner has relied upon the decision of this Court in *N.Swarnalatha v. Managing Director, A.P.S.R.T.C., Hyderabad*. The Division Bench of this Court while upholding the validity of Section 68(3)(ca) of the Act observed that the existing

routes are concerned they have to be formulated by the Government. Therefore, it is just and proper for the Regional Transport Authority to consider applications of the petitioners for grant of pucca stage carriage permits on the said muffasil route in accordance with law. Accordingly, the order dated 12.11.2001 passed by the first respondent in A.P.Nos.176 of 2000 and 177 of 2000 confirming the order of the 2nd respondent in Item No.16 in Rc.No.2293/A1/2000 dated 3.7.2000 is set aside and the matter is remitted back to the Regional Transport Authority, Srikakulam to consider applications of the petitioners afresh in the light of the aforesaid observations and pass appropriate orders after giving reasonable opportunity to the petitioners within eight weeks from the date of receipt of copy of this order.

The writ petitions are, accordingly, disposed of. No order as to costs

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(V.ESWARAIAH, J.)

4.4.2005

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To

1. The Presiding Officer, State Transport Appellate Tribunal, A.P.,

Housing Board Buildings, near Exhibition Grouds,

Hyderabad.

2. The Regional Transport Authority, Srikakulam District, by its

Secretary, Srikakulam.

3. The Regional Manager, A.P.S.R.T.C., Srikakulam, Srikakulam Dist.

4. 2 copies to the Govt. Pleader for Roads and Buildings, High Court buildings,

Hyderabad.

5. 2 C.D. copies